THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9249 of 2006

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings of the first respondent in Rc.No.CS2/3782/2005 dated 3.4.2006 as arbitrary and illegal.

It appears, petitioner was the fair price shop dealer of Chintagunta village, Markapuram mandal, Prakasam district. While so, his authorization was cancelled by the Revenue Divisional Officer, Markapur vide proceedings dated 7.12.2004 after conducting enquiry into the matter. As many as three charges were framed against the petitioner, which read as under:

1. That the dealer is selling essential commodities at higher rates than the rates fixed by the Government i.e. rice @ Rs.5.50 per kg. instead of Rs.5.25 AAY rice is at Rs.4.00 per kg. instead of Rs.3.00 and kerosene is at Rs.11.00 per litre instead of Rs.9.50 to the cardholders thereby violating the Government conditions.'
2. The dealer is opening the shop and selling essential commodities only two in a month and thereby causing inconvenience to the cardholders and not distributing essential commodities to the remaining cardholders.
3. The dealer has committed certain irregularities in distribution of essential commodities to the cardholders.

The petitioner seems to have submitted his explanation stating that he is not guilty of any of the charges framed against him and the same were made at the behest of third parties who are enimically disposed of towards him. Aggrieved by the same, petitioner filed an appeal before the Joint Collector, Prakasam district. The Joint Collector vide proceedings dated 30.9.2005 disposed of the appeal holding as under:

> "The case is finally came up for hearing on 29.8.2005. Heard the counsel for the appellant. Perused the record. After going through the record, it is noticed that

> the Revenue Divisional Officer, Markapur cancelled the dealership authorization of the appellant basing on the report of the Mandal Revenue Officer, Markapur. The charges framed against the dealer are trivial and technical in nature. According to clause 5(4) of Andhra Pradesh State Public Distribution System (Control) Order, 2001 the cancellation of authorization in spite of submission of explanation to show cause notice amounts to substantive penalty. Period of suspension is to be treated as a substantive penalty. Here the grounds for cancellation of the dealership authorization are not substantial. Hence the orders of the Revenue Divisional Officer, Markapur issued in Procs. D.Dis.H/1347/2004 dated 7.12.2004 is set aside. The appeal is allowed".

From the above order, it is seen that the charges framed against the petitioner are trivial and technical in nature. Therefore, there is no necessity for cancellation of authorization of the petitioner. In fact, cancellation of authorisation in spite of submission of explanation to show cause notice amounts to substantive penalty and since the grounds for cancellation of dealership were trivial, the appeal was allowed by the Joint Collector. Aggrieved by the said order, cardholders have filed revision before the first respondent-District Collector. The first respondent vide order dated 3.4.2006 set aside the order of the Joint Collector. Aggrieved by the same, dealer filed the present writ petition.

Heard the learned counsel on either side and perused the material made available on record.

Though the District Collector passed a detailed order, no details as to what exactly are the irregularities committed by the petitioner and what is the evidence to hold the petitioner guilty of such irregularities are not available. The Revenue Divisional Officer has not conducted any independent enquiry while passing the order dated 7.12.2004

cancelling the authorization of the petitioner.

For all the above reasons, I am of the opinion that the order passed by the Revenue Divisional Officer is a cryptic one and the Joint Collector has rightly held that the period of suspension is to be treated as a substantive penalty and the grounds for cancellation of dealership are not only trivial, but also technical in nature. Therefore, I am of the view that the order passed by the Revenue Divisional Officer, Markapur dated 7.12.2004 as confirmed by the District Collector are liable to be set aside.

In the result, the writ petition is allowed and the impugned order passed by the first respondent-District Collector dated 3.4.2006 is set aside and the order passed by the Joint Collector is upheld. No order as to costs.

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C.V.RAMULU, J

Date: 26.12.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9249 of 2006

26.12.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9249 of 2006

Date: 26th December, 2006

Between:

M.Ch.Anantha Reddy

.. Petitioner

And

The District Collector,
Prakasam district & others.

.. Respondents